

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: NCUA is proposing to revise its rules concerning capitalization of the share insurance fund through the maintenance of a deposit by each insured credit union, payment of an insurance premium, and equity distribution. NCUA is proposing these revisions to conform its regulation with recent changes to the Federal Credit Union Act.

DATES: The NCUA must receive comments on or before July 26, 1999.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428, or you may fax comments to (703) 518-6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Dennis C. Winans, Chief Financial Officer, Office of the Chief Financial Officer, at the above address or telephone: (703) 518-6570; or Regina M. Metz, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518-6540.

SUPPLEMENTARY INFORMATION:

A. Background

The Credit Union Membership Access Act (CUMAA) was enacted into law on August 7, 1998. Public Law 105-21. Section 302 of CUMAA amends section 202 of the Federal Credit Union Act providing for requirements for obtaining and maintaining share insurance coverage from the National Credit Union Share Insurance Fund (NCUSIF). 12 U.S.C. 1782. The revisions concern capitalization of the share insurance

fund through the maintenance of a one percent deposit by each insured credit union, payment of an insurance premium, and distribution of fund equity. CUMAA also adds provisions concerning the NCUSIF's equity ratio and available assets ratio. The amendments will become effective January 1, 2000. Accordingly, NCUA is proposing to revise § 741.4 to implement the provisions of section 302 of CUMAA.

B. Section by Section Analysis

Section 741.4(a) Scope

The scope of the proposed rule is to implement the requirements of Section 202 of the Federal Credit Union Act, as amended by CUMAA. CUMAA provides for payment of an insurance premium not more than twice in any calendar year, rather than annually, as under the current rule. Therefore, the NCUA proposes to change the reference in this paragraph from "payment of an annual insurance premium" to "payment of an insurance premium."

Section 741.4(b) Definitions

In this paragraph, the NCUA proposes to incorporate CUMAA's definitions for the following terms: "available assets ratio," "equity ratio," "insured shares," and "normal operating level." The terms "available assets ratio" and "equity ratio" are new to the regulation. The proposed rule changes some words in the definitions for "available assets ratio" and "equity ratio" from CUMAA to be consistent with GAAP terminology. Department of Treasury staff with whom NCUA staff discussed these wording changes supports them. Under the proposed rule, after January 1, 2000, the NCUA will calculate the available assets ratio and equity ratio to determine whether to approve an annual distribution of NCUSIF equity to insured credit unions, and if so, the amount. Under the proposed rule, the NCUA will also use the equity ratio to determine whether to charge insured credit unions an insurance premium and if so, the amount. The proposed rule does not change the definition of "insured shares," but renumbers it so that the list of defined terms remains in alphabetical order. The proposed section revises the definition of the "normal operating level." The current rule defines normal operating level as 1.3% of the aggregate of all insured

shares at the end of the insurance year, or such lower value as established by the action of the NCUA Board. The proposed rule defines normal operating level as an equity ratio, determined by the NCUA Board, from 1.2% to 1.5% at the end of the calendar year. As required by CUMAA, the proposed rule removes the definition for "insurance year." The proposed rule adds a new definition for "reporting period" meaning calendar year for credit unions with total assets of less than \$50 million and semiannual period for credit unions with total assets of \$50 million or more.

To aid understanding of the new definitions for available assets ratio and equity ratio, the proposed rule contains a representation of the calculations in the style of a mathematical formula.

Section 741.4(c) One Percent Deposit

This proposed paragraph incorporates the provision of CUMAA that requires the NCUA to adjust the deposit amount semiannually for insured credit unions with assets of \$50 million or more, while retaining the annual adjustment requirement for credit unions with less than \$50 million in assets. If the aggregate amount of insured shares of the credit union has increased, the adjustment will be an increase in the deposit amount. If the aggregate amount of insured shares of the credit union has decreased, the adjustment will be a refund to the credit union.

Section 741.4(d) Insurance Premiums

This proposed paragraph incorporates CUMAA's provision that, as of January 1, 2000, insured credit unions will pay an insurance premium to the NCUA not more than twice in any calendar year, on the dates the Board determines. Under the current rule effective until January 1, 2000, all insured credit unions must pay to the NCUA an annual insurance premium of $\frac{1}{12}$ of one percent of insured shares, unless the NCUA Board waives the premium.

As required by CUMAA, the proposed section requires the NCUA Board, as of January 1, 2000, to calculate the amount of the premium not more than twice in any calendar year based on the amount of the NCUSIF's equity ratio. The NCUA Board may only assess an insurance premium if the NCUSIF equity fund ratio is less than 1.3 percent. The premium charge must not exceed the amount necessary to restore the equity ratio to 1.3 percent. If the amount of the

equity ratio is less than 1.2 percent, the NCUA Board must assess an insurance premium in an amount to restore the equity ratio to 1.2 percent.

Section 741.4(e) Distribution of NCUSIF Equity

This paragraph incorporates the CUMAA provision that requires the NCUA Board to make a distribution of NCUSIF equity to insured credit unions after each calendar year when NCUSIF's available assets ratio exceeds one percent, and the NCUSIF exceeds its normal operating level. The current rule provides for a redistribution of NCUSIF equity after each insurance year if the NCUSIF exceeds its normal operating level, which is defined as 1.3 percent or such lower value as established by action of the NCUA Board. CUMAA and the proposed rule revise the definition of normal operating level to not less than 1.2 percent and not more than 1.5 percent of the aggregate of all insured shares at the end of the year as established by action of the NCUA Board. The current rule requires the amount of the distribution to reduce the NCUSIF to its normal operating level. The proposed rule requires the distribution to be an amount that reduces the NCUSIF to its normal operating level and to an available assets ratio of not below 1.0 percent. Under the proposed rule, the NCUA Board would use the aggregate amount of the insured shares from all insured credit unions from the final reporting period of the calendar year in calculating the NCUSIF's equity ratio and available assets ratio to determine whether to distribute NCUSIF equity.

The Board requests comments on the appropriate percentage for the normal operating level for the year 2000.

Section 741.4(f) Invoices

This paragraph states that the NCUA will provide copies of invoices to all federally insured credit unions in connection with the amount of their one percent deposit and any premium payment. The proposed rule updates and clarifies the current rule, in addition to incorporating changes required under CUMAA.

The current rule identifies the invoices as Forms 1304, for federally insured state-chartered credit unions, and 1305, for federal credit unions, and states that Form 1305 includes the annual operating fee. The NCUA no longer identifies the invoices as Forms 1304 and 1305. Therefore, the proposed rule generally replaces references to Forms 1304 and 1305 with the word "invoices" and states that invoices for federal credit unions include any

annual operating fee due. The proposed rule also includes other small wording changes to update and clarify the current rule.

In addition, the current rule refers to the credit unions' annual premium payment. CUMAA changes the term of the premium payment from annual to not more than twice in any calendar year. Therefore, the proposed rule removes the word "annual" where it modifies "premium payment" to incorporate the changes required under CUMAA.

Sections 741.4(g) New Charters, (h) Conversion to Federal Insurance, and (j) Return of Deposit

As stated previously, CUMAA removes the term "insurance year" from Section 202 of the Federal Credit Union Act. CUMAA provides that the amount of the one percent deposit will be assessed annually for credit unions with total assets of not more than \$50 million and semiannually for credit unions with total assets of \$50 million or more. Therefore, the proposed rule conforms with CUMAA by removing the words "insurance year" where they appear in paragraphs (g) and (h) and replacing them with the words "calendar year." The proposed rule also conforms with CUMAA by revising the wording in paragraph (h) to account for the revisions to paragraph (d) concerning premiums.

CUMAA and the proposed rule no longer automatically provide for an annual premium, but provide that the NCUA Board may assess a premium not more than twice in a calendar year. CUMAA also provides that any distribution of NCUSIF equity will occur after each calendar year. Therefore, the proposed rule conforms with CUMAA by removing the words "insurance year" where they appear in paragraph (j) and replacing them with "calendar year."

C. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under \$1 million in assets). The NCUA has determined and certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed amendments do not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. As does the current rule, the proposed amendments will apply to federal credit unions and federally-insured state-chartered credit unions. NCUA has determined that the proposed amendments will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

D. Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose a minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive if implemented as proposed. Commenters should note that CUMAA mandates the changes in this regulation.

List of Subjects in 12 CFR Part 741

Credit unions, Requirements for insurance.

By the National Credit Union Administration Board on May 19, 1999.

Becky Baker,
Secretary of the Board.

For the reasons set forth in the preamble, the National Credit Union Administration proposes to amend 12 CFR part 741 as follows:

PART 741—REQUIREMENTS FOR INSURANCE

Subpart A—Regulations That Apply To Both Federal Credit Unions and Federally Insured State-Chartered Credit Unions and That Are Not Codified Elsewhere in NCUA's Regulations

1. The authority citation for Subpart A continues to read as follows:

Authority: 12 U.S.C. 1782.

2. Amend § 741.4 as follows:

- a. In paragraph (a), remove the word "annual."
- b. In paragraph (g), remove the words "insurance year" from wherever they appear and add, in their place, the words "calendar year."

c. In paragraph (j), remove the words "insurance year" and add, in their place, the words "calendar year."

d. Redesignate paragraph (b)(2) as paragraph (b)(3), revise paragraph (b)(1), add new paragraphs (b)(2), (b)(4) and (b)(5), and revise paragraphs (c), (d), (e), (f), and (h) to read as follows:

§ 741.4 Insurance premium and one percent deposit.

* * * * *

(b) *Definitions.* For purposes of this section.

(1) *Available assets ratio* means the ratio of:

(i) The amount determined by subtracting all liabilities of the NCUSIF, including contingent liabilities for which no provision for losses has been

made, from the sum of cash and the market value of unencumbered investments authorized under 12 U.S.C. 1783(c), to:

(ii) The aggregate amount of the insured shares in all insured credit unions.

(iii) Shown as an abbreviated mathematical formula, the available assets ratio is:

$$\frac{(\text{cash} + \text{market value of unencumbered investments}) - (\text{liabilities} + \text{contingent liabilities for which no provision for losses has been made})}{\text{aggregate amount of all insured shares from final reporting period of calendar year}}$$

(2) *Equity ratio* means the ratio of:
(i) The amount of NCUSIF's capitalization, meaning insured credit unions' one percent capitalization deposits plus the retained earnings balance of the NCUSIF (less contingent

liabilities for which no provision for losses has been made) to:

(ii) The aggregate amount of the insured shares in all insured credit unions.

(ii) Shown as an abbreviated mathematical formula, the equity ratio is:

$$\frac{\text{insured credit unions' 1.0\% capitalization deposits} + (\text{NCUSIF's retained earnings} - \text{contingent liabilities for which no provision for losses has been made})}{\text{aggregate amount of all insured shares}}$$

(3) * * *
(4) *Normal operating level* means an equity ratio not less than 1.2 percent and not more than 1.5 percent, as established by action of the NCUA Board.

(5) *Reporting period* means calendar year for credit unions with total assets of less than \$50,000,000 and means semiannual period for credit union with total assets of \$50,000,000 or more.

(c) *One percent deposit.* Each insured credit union shall maintain with the NCUSIF during each reporting period a deposit in an amount equaling one percent of the total of the credit union's insured shares at the close of the preceding reporting period. For credit unions with total assets of less than \$50,000,000, insured shares will be measured and adjusted annually based on the insured shares reported in the credit union's semiannual 5300 report due in January of each year. For credit unions with total assets of \$50,000,000 or more, insured shares will be measured and adjusted semiannually based on the insured shares reported in the credit union's quarterly 5300 reports due in January and July of each year.

(d) *Insurance premium charges.* (1) *In general.* Each insured credit union will pay to the NCUSIF, on dates the NCUA Board determines, but not more than twice in any calendar year, an insurance premium in an amount stated as a percentage of insured shares, which will

be the same for all insured credit unions.

(2) *Relation of premium charge to equity ratio of NCUSIF.* (i) The NCUA Board may assess a premium charge only if the NCUSIF's equity ratio is less than 1.3 percent and the premium charge does not exceed the amount necessary to restore the equity ratio to 1.3 percent.

(ii) If the equity ratio of NCUSIF falls below 1.2 percent, the NCUA Board is required to assess a premium in an amount it determines is necessary to restore the equity ratio to, and maintain that ratio at, 1.2 percent.

(e) *Distribution of NCUSIF equity.* If, as of the end of a calendar year, the NCUSIF exceeds its normal operating level and its available assets ratio exceeds 1.0 percent, the NCUA Board will make a proportionate distribution of NCUSIF equity to insured credit unions. The distribution will be the maximum amount possible that does not reduce the NCUSIF's equity ratio below its normal operating level and does not reduce its available assets ratio below 1.0 percent. The distribution will be after the calendar year and in the form determined by the NCUA Board. The form of the distribution may include a waiver of insurance premiums, premium rebates, or distributions from NCUSIF equity in the form of dividends. The NCUA Board will use the aggregate amount of the

insured shares from all insured credit unions from the final reporting period of the calendar year in calculating the NCUSIF's equity ratio and available assets ratio for purposes of this paragraph.

(f) *Invoices.* The NCUA provides invoices to all federally insured credit unions stating any change in the amount of a credit union's one percent deposit and the computation and funding of any premium payment due. Invoices for federal credit unions also include any annual operating fees that are due. Invoices are calculated based on a credit union's insured shares as of the most recently ended reporting period. The invoices may also provide for any distribution the NCUA Board declares in accordance with paragraph (e) of this section, resulting in a single net transfer of funds between a credit union and the NCUA.

* * * * *

(h) *Conversion to Federal insurance.* An existing credit union that converts to insurance coverage with the NCUSIF shall immediately fund its one percent deposit based on the total of its insured shares as of the close of the month prior to conversion and, if any premiums have been assessed in that calendar year, will pay a prorated premium amount to reflect the remaining number of months in that calendar year. The credit union will be entitled to a prorated share of any distribution from

NCUSIF equity declared subsequent to the credit union's conversion.

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[FR Doc. 99-13305 Filed 5-25-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-SW-30-AD]

Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada, Model 206L, L-1, L-3, and L-4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the superseding of an existing airworthiness directive (AD) applicable to Bell Helicopter Textron, A Division of Textron Canada (BHTC) Model 206L, L-1, L-3, and L-4 helicopters. This action would require the same type of actions required by the existing AD. In addition, the proposal would require an increase in the Retirement Index Number (RIN) multiplier for the mast, a correction in the model number, and other nonsubstantive changes. This proposal is prompted by further tests and analyses that indicate the RIN multiplier for the Model 206L-4 needs to be increased and the discovery of other errors in the existing AD. The actions specified by the proposed AD are intended to prevent fatigue failure of the mast or trunnion, which could result in loss of the main rotor system and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before July 26, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-30-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron, a Division of Textron Canada, 12,800 Rue de L-Avenir, Mirabel, Quebec, Canada J7J1R4, ATTN: Product Support Engineering Light Helicopters. This

information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Jurgen Priester, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5159, fax (817) 222-5959.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99-SW-30-AD. The postcard will be date stamped and returned to the commenter."

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-30-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On March 14, 1997, the FAA issued AD 97-07-07, Amendment 39-9981 (62 FR 16073). The AD required the creation of a component history card or equivalent record using the RIN system for certain masts and trunnions within the next 100 hours time-in-service (TIS) and a system for tracking increases to

the accumulated RIN. That AD also established a retirement life for the trunnion based solely on a RIN of 24,000 and a retirement life for the mast based on a maximum RIN of 44,000 or the flight-hour service life limit, whichever occurs first. That AD was prompted by fatigue analyses and tests that show certain masts and trunnions fail sooner than originally anticipated because of the unanticipated higher number of torque events performed with those masts and trunnions in addition to the TIS accrued under other operating conditions. That condition, if not corrected, could result in fatigue failure of the mast or trunnion, which could result in loss of the main rotor system and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has discovered that the AD contained errors in two paragraphs. Paragraph (c)(2) incorrectly requires the operator to increase the mast RIN count for the Model 206L-4 by 1, when it should actually be increased by 2, for each torque event. Paragraph (c)(1)(i) contains an omission of the letter "L" from one helicopter model number. This AD would correct paragraph (c)(2) to avoid a miscalculation of the mast RIN and to correctly identify the Model 206L. This AD would also add nonsubstantive changes to the text. Paragraphs (b) and (c) would state that the RIN may be recorded on an "equivalent record" in lieu of a component history card. Paragraph (d) and (e) would state that this AD revises the Limitations section of the maintenance manual.

Explanation of Relevant Service Information

Bell Helicopter Textron, Inc. has issued Alert Service Bulletin No. 206L-94-99, Revision A, dated May 1, 1995 (ASB), which describes procedures for calculating the retirement life based on the RIN count.

FAA's Conclusions

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this